

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

REGINALD GIBSON,

Plaintiff,

v.

E. CASTELLANOS, et al.,

Defendants.

No. 1:21-cv-00794-ADA-GSA (PC)

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS

(ECF Nos. 16, 17)

Plaintiff Reginald Gibson ("Plaintiff") is a state prisoner proceeding *pro se* and *in forma pauperis* with this civil rights action pursuant to 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B).

On April 13, 2023, the assigned Magistrate Judge issued findings and recommendations, recommending that this action proceed only on Plaintiff's claims for retaliation and excessive force against Defendants Castellanos and Riley, and that all remaining claims and Defendants be dismissed from this action based on Plaintiff's failure to state a claim. (ECF No. 17.) The pending findings and recommendations were served on Plaintiff and contained notice that any objections thereto were to be filed on or before April 28, 2023. (*Id.*) To date, no objections to the findings and recommendations have been filed with the court, and the time in which to do so has now passed.

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1 In accordance with the provisions of 28 U.S.C. § 636 (b)(1)(C), this Court has conducted a
2 *de novo* review of the case. Having carefully reviewed the entire file, the Court finds the findings
3 and recommendations to be supported by the record and by proper analysis.

4 Accordingly,

- 5 1. The findings and recommendations issued by the Magistrate Judge on April 13,
6 2023, (ECF No. 17), are adopted in full;
- 7 2. This case now proceeds with Plaintiff's Second Amended Complaint, (ECF No. 16),
8 against Defendant C/O Castellanos for both the December 1, 2019, and April 4,
9 2020 incidents, and Defendant C/O Riley for the December 1, 2019 incident, for use
10 of excessive force in violation of the Eighth Amendment; and against Defendant
11 Riley for the December 1, 2019 incident, and against Defendant Castellanos for the
12 April 4, 2020 incident, for retaliation in violation of the First Amendment;
- 13 3. All other claims and Defendants are dismissed from this case for failure to state a
14 claim, without leave to amend; and
- 15 4. This case is referred back to the Magistrate Judge for further proceedings, including
16 initiation of service of process.

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19 IT IS SO ORDERED.

20 Dated: June 30, 2023

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UNITED STATES DISTRICT JUDGE